IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN

AT JODHPUR.

Date of Order : 4.1.2005

S.B. CIVIL WRIT PETITION NO.3476/2002

State of Rajasthan vs. Amba Dan & ors.

HON'BLE MR. PRAKASH TATIA, J.

Mrs. Vidhyawati Bora, for the petitioner State.

Mr. J.L. Purohit, for the respondent no.1.

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Heard learned counsel for the parties.

The short question involved in this writ petition is whether the land which was purchased by the respondent no.1 after cut off date i.e. 1.4.1966, can be included while calculating the ceiling limit for holding agriculture land under the provisions of Chapter III B of the Rajasthan Tenancy Act (which is applicable to the case of the assessee respondent).

The fact is not in dispute that the respondent no.1 purchased certain land after 1.4.1966 and it is being sought to be included in the area which is to be calculated for the purpose of determining ceiling limits of the agriculture land of the petitioner.

In view of Section 15(2) of the Rajasthan Imposition of Ceiling on Agricultural Holding Act,

1973 (for short the “Act of 1973”), the State has power to reopen the cases already decided under the provisions of repealed ceiling law. Section 15(2) further provides that the State Government, after reopening the decided ceiling matters, can direct the authorities to decide the ceiling case of the assessee afresh.

Second Proviso to Section 4 provides that the ceiling area applicable to such person will be the same as was under the provisions of the said repealed law.

The Division Bench of this Court in the case of Smt. Durga Devi and others vs. Board of Revenue and others reported in RRD 1997 page 501 has already decided this issue and it has been held by the Division Bench that if any land has been acquired by the person or family after 1.4.1966, proceedings can be taken against them under Sub-section 2 but the land so acquired cannot be included for determination of the ceiling area.

In view of the above discussion, I do not find any merit in this writ petition and the same is hereby dismissed.

(PRAKASH TATIA), J.

S.Phophaliya